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10/563,004

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EXAMINER

ANDERSON, FOLASHADE

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|-----------------------------------------|--|
| Office Action Summary | Application No. 10/563,004 | Applicant(s) DAUM, ANDREAS W. | |
| | Examiner FOLASHADE ANDERSON | Art Unit 3623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first non-final office action in response to Applicant's submission filed on 12/28/2005.

Status of Claims

2. Currently, claims 1-15 are pending.

Information Disclosure Statement

3. No information disclosure statement (IDS) was considered by the Examiner in the prosecution of the claims in the instant application.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 4 and 15 are rejected under 35 U.S.C. 112, second paragraph. The term "freely configurable" in claims 1, 4, and 15 is a relative term which renders the claim indefinite. The term "freely" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For purposes of examination the "freely configurable" is interpreted to mean capable of being configured.
6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites "an activity or with a date type;" however it is

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unclear if the claimed activities are the same as the "each activity comprising at least one of a start date type and a stop date type." From the specification it appears that the activity would be the same thus article "the" should be used instead of a/an.

7. Claims 2, 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For example claim 2 recites "an activity or with a date type;" however it is unclear if the claimed activities are the same as the "each activity comprising . . . date type" of claim 1. From the specification it appears that the activity would be the same thus article "the" should be used instead of a/an. Claims 3 and 5 are reject for substanually the same reasoning given above.

8. Claim 8 is recites the limitation "said service functions" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim.

9. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically Applicant uses the conjunction "and/or" it is not clear whether the portion of the limitation following the conjunction is required for the claim. For purposes of examination the "and/or" is being interpreted as "or."

Claim Rejections - 35 USC § 101

10. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a method to be considered a "process" under §101, a claimed process must either comply with the "machine-or-

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transformation test” (1) be tied to a particular machine or apparatus or (2) transform a particular article to a different state or thing. In re Bilski, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

With respect to independent claims 1 and 15, the claim language recites the steps of being, configurable, etc., however the claim language does not include the required tie or transformation.

Claims 2-14 are rejected based upon the same rationale, wherein the claim language does not include the required tie or transformation.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 1, 5-7 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipate by **Lautzenheiser** (US Patent 6,023,572).

13. Claim 1

Lautzenheiser teaches a method of configuring a business process for scheduling, the business process comprising

- a plurality of activities (**Lautzenheiser col. 7, lines 7-8; where a task is the equivalent of an activity**), each activity comprising
 - at least one of a start date type and a stop date type (**Lautzenheiser col. 7, lines 8-10**);
- the activities being in a time relationship to each other (**Lautzenheiser fig. 7 and col. 4, lines 39-42**);
- wherein the business process is freely configurable with respect to the plurality of activities and with respect to the time relationships of the activities to each other (**Lautzenheiser col. 8, lines 1-11; where the various scenarios depicts the configurability of the process**).

14. Claim 5

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein an activity can be modeled as a plurality of sub-processes (**Lautzenheiser col. 8, lines 12-15 and fig. 7**).

15. Claim 6

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein a sub-process comprise a plurality of activities (**Lautzenheiser col. 7, lines 6-8 and col. 8, lines 12-15**).

16. Claim 7

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein a decision whether or not a delegation is invoked is during run-time of the scheduling (**Lautzenheiser col. 7, lines 41-43**).

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17. Claim 10

10. The method of Claim 1, wherein at least one delegation scheme is assigned to at least one activity (**Lautzenheiser col. 7, lines 13-16**), the delegation the service function being usable for invoking, during scheduling, an external application for determining start date and/or finish date of the at least one activity (**Lautzenheiser col. 7, lines 4-6; where MS project is an external application**).

18. Claim 11

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein the activities and their time relationship are representable as a network of nodes and edges (**Lautzenheiser col. 13, lines 52-53**), each node representing one of the plurality of activities (**Lautzenheiser col. 7, line 6-8**), and each edge connecting a pair of nodes and representing a predecessor-successor relationship of the activities represented by the respective pair of nodes (**Lautzenheiser fig. 7**).

19. Claim 12

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein a scheduling scheme is produced based on the configured business process, whereby the scheduling scheme is a set of meta data descriptive of how the individual activities are to be processed within scheduling (**Lautzenheiser fig. 7 and col. 8, lines 33-45**).

20. Claim 13

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein a scheduling scheme is associated to the business process (**Lautzenheiser fig. 7**), the scheduling scheme comprising configuration data to at least one of duration, calendar,

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and time zone (**Lautzenheiser col. 7, lines 8-10 where a start and end imply a duration**).

21. Claim 14

Lautzenheiser teaches all the limitation of the method of Claim 1, wherein a scheduling scheme is associated to the business process, the scheduling scheme comprising configuration data to at least one of service function, and delegation process model (**Lautzenheiser col. 8, lines 11-14**).

22. Claim 15

15. A method of configuring a production process for simulating, the production process comprising

- a plurality of element (**Lautzenheiser col. 7, lines 7-8; where a task is the equivalent of an element**), each element comprising
 - at least one of a start date type and a stop date type
(**Lautzenheiser col. 7, lines 8-10**)
- the steps being in a time relationship to each other (**Lautzenheiser fig. 7 and col. 4, lines 39-42**);
- wherein the production process is freely configurable with respect to the plurality of element and with respect to the time relationships of the element to each other (**Lautzenheiser col. 8, lines 1-11; where the various scenarios depicts the configurability of the process**).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claim 2-4, 8 and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over **Lautzenheiser** (US Patent 6,023,572) as applied to claim 1 above, and further in view of **Malin** et al (US Pub. 2002/0007289).

25. Claim 2

Lautzenheiser teaches all the limitation of the method of Claim 1, and further teaches that the use of MS Project (**Lautzenheiser col. 7, lines 4-5**); however is silent on wherein a technical ID is associated with an activity or with a date type.

Malin teaches in the analogous art of automobile repair, wherein a technical ID is associated with an activity or with a date type (**Malin par. 0059; where Malin also uses MS project see par. 0060**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of **Lautzenheiser** the technical ID is associated with an activity or with a date type as taught by **Malin** since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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26. Claim 3

Lautzenheiser teaches all the limitation of the method of Claim 1, and further teaches that the use of MS Project (**Lautzenheiser col. 7, lines 4-5**); however is silent wherein a text is associated with an activity or with a date type, the text being descriptive for the activity or for the date type.

Malin teaches in the analogous art of automobile repair, wherein a text is associated with an activity or with a date type, the text being descriptive for the activity or for the date type (**Malin par. 0059; where Malin also uses MS project see par. 0060**)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of **Lautzenheiser** the text is associated with an activity or with a date type, the text being descriptive for the activity or for the date type as taught by **Malin** since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

27. Claim 4

Lautzenheiser teaches all the limitation of the method of Claim 1, and further teaches that the use of MS Project (**Lautzenheiser col. 7, lines 4-5**); however is silent wherein time units are assigned to specific date types, the time units being freely configurable for each date type.

Malin teaches in the analogous art of automobile repair wherein time units are assigned to specific date types, the time units being freely configurable for each date type (**Malin par. 0059 and fig. 3 where Malin also uses MS project see par. 0060**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of **Lautzenheiser** the time units are assigned to specific date types, the time units being freely configurable for each date type as taught by **Malin** since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

28. Claim 8

Lautzenheiser teaches all the limitation of the method of Claim 1, and further teaches that the use of MS Project (**Lautzenheiser col. 7, lines 4-5**); however is silent, wherein said service functions being usable for determination of time zone, calendar and duration of an activity.

Malin teaches in the analogous art of automobile repair wherein said service functions being usable for determination of time zone, calendar and duration of an activity (**Malin fig. 3**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of **Lautzenheiser** the service functions being usable for determination of time zone, calendar and duration of an activity as taught by **Malin** since the claimed invention is merely a combination of old elements,

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and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

29. Claim 9

Lautzenheiser teaches all the limitation of the method of Claim 1, and further teaches that the use of MS Project (**Lautzenheiser col. 7, lines 4-5**); however is silent, method of Claim 1, wherein at least one service function is assigned to at least one activity, the service function being usable, during scheduling, for determining start date and/or finish date of the at least one activity.

Malin teaches in the analogous art of automobile repair at least one service function is assigned to at least one activity, the service function being usable, during scheduling, for determining start date and/or finish date of the at least one activity (**Malin fig. 3 #300**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the invention of **Lautzenheiser** at least one service function is assigned to at least one activity, the service function being usable, during scheduling, for determining start date and/or finish date of the at least one activity as taught by **Malin** since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Wolfinger (US Patent 6,415,259) and Wynn et al (US Publication 2004/0261013) teaches scheduling with respect to time zone scheduling.
- Ertemalp (US Patent 5,745,110) and Martin (US Patent 4489958) teach scheduling format
- Breitenbach et al (US Patent 7,236,976 B2) teaches scheduling with task and sub-task

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FOLASHADE ANDERSON whose telephone number is (571)270-3331. The examiner can normally be reached on Monday through Thursday 8:00 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Folashade Anderson/
Examiner, Art Unit 3623

/Beth V. Boswell/
Supervisory Patent Examiner, Art Unit 3623